

BROOKS, PIERCE, McLENDON, HUMPHREY & LEONARD, L.L.P.

**ATTORNEYS AT LAW
RALEIGH, NORTH CAROLINA**

MAILING ADDRESS
POST OFFICE BOX 1800
RALEIGH, N.C. 27602

OFFICE ADDRESS
SUITE 1600
FIRST UNION CAPITOL CENTER
150 FAYETTEVILLE STREET MALL
RALEIGH, N.C. 27601

BOOKET FILE COPY ORIGINAL

L.P. McLENDON, JR.
HUBERT HUMPHREY
EDGAR S. FISHER, JR.
W. ERWIN FULLER, JR.
JAMES T. WILLIAMS, JR.
WADE H. HARGROVE
M. DANIEL MCGINN
MICHAEL D. MEEKER
WILLIAM G. McNAIRY
EDWARD C. WINSLOW III
HOWARD L. WILLIAMS
GEORGE W. HOUSE
WILLIAM P.H. CARY
REID L. PHILLIPS
ROBERT A. SINGER
JOHN H. SMALL
RANDALL A. UNDERWOOD
S. LEIGH RODENBOUGH IV
WILLIAM G. ROSS, JR.
MARK J. PRAX
JILL R. WILSON
MARC D. BISHOP
JIM W. PHILLIPS, JR.
MACK SPERLING
JEFFREY E. OLEYNIK
MARK DAVIDSON
MELISSA H. WEAVER
JAMES R. SAINTSING
JOHN W. ORMAND III
ROBERT J. KING III

STEVEN J. LEVITAS
V. RANDALL TINSLEY
JOHN R. ARCHAMBAULT
S. KYLE WOOSLEY
DANIEL M. SROKA
FORREST W. CAMPBELL, JR.
MARCUS W. TRATHEN
JEAN C. BROOKS
ANNE C. BRENNAN
ELLEN P. HAMRICK
ALLISON M. GRIMM
JAMES C. ADAMS, II
ELIZABETH S. BREWINGTON
JOHN K. EASON
H. ARTHUR BOLICK II
NATASHA RATH MARCUS
JOHN M. CROSS, JR.
JENNIFER K. VAN ZANT
KEARNS DAVIS
TRACEY BANKS COAN
DAVID W. SAR
KATHLEEN M. THORNTON
BRIAN J. McMILLAN
JENNIFER L. BOLICK
DAVID KUSHNER
DEREK J. ALLEN
ELIZABETH V. LaFOLLETTE
ERIN L. ROBERTS
GINGER S. SHIELDS

TELEPHONE 919-839-0300
FACSIMILE 919-839-0304

RECEIVED

AUG 21 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

FOUNDED 1897

AUBREY L. BROOKS (1872-1888)
W.H. HOLDERNESS (1804-1888)
L.P. McLENDON (1890-1898)
KENNETH M. BRIM (1898-1874)
C.T. LEONARD, JR. (1829-1883)
CLAUDE C. PIERCE (1813-1888)
THORNTON H. BROOKS (1812-1888)
G. NEIL DANIELS (1811-1897)

GREENSBORO OFFICE
2000 RENAISSANCE PLAZA
230 NORTH ELM STREET
GREENSBORO, N.C. 27401

WASHINGTON OFFICE
2000 L STREET N.W., SUITE 200
WASHINGTON, D.C. 20036

August 21, 1998

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
1919 M Street, NW, Stop Code - 1170
Washington, D.C. 20554

Re: Reply Comments Of
Hearst-Argyle Television, Inc.
MM Docket No. 98-35

Dear Ms. Salas:

Transmitted herewith on behalf of Hearst-Argyle Television, Inc. are an original and eleven (11) copies of Reply Comments in response to the *Notice of Inquiry*, FCC 98-37, released March 13, 1998, issued in MM Docket No. 98-35.

If any questions should arise during the course of your consideration of this matter, it is respectfully requested that you communicate with this office.

Very truly yours,


Wade H. Hargrove
Counsel to Hearst-Argyle Television, Inc.

Enclosures

No. of Copies rec'd
A B C D E

0211

**Before the
Federal Communications Commission
Washington, D.C. 20554**

RECEIVED

AUG 21 1998

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

In the Matter of)
)
1998 Biennial Regulatory Review—)
Review of the Commission's Broadcast)
Ownership Rules and Other Rules Adopted)
Pursuant to Section 202 of the)
Telecommunications Act of 1996)

MM Docket No. 98-35

To: The Commission

REPLY COMMENTS OF HEARST-ARGYLE TELEVISION, INC.

Wade H. Hargrove
Mark J. Prak
David Kushner

BROOKS, PIERCE, McLENDON,
HUMPHREY & LEONARD, L.L.P.
First Union Capitol Center
Suite 1600 (27601)
Post Office Box 1800
Raleigh, North Carolina 27602
Telephone: (919) 839-0300
Facsimile: (919) 839-0304

Counsel to Hearst-Argyle Television, Inc.

August 21, 1998

Table of Contents

	Summary	iii
I.	Introduction	2
II.	The Newspaper/Broadcast Cross-Ownership Rule Now Operates To Stifle The Development Of “New Media” Voices And Perversely Prohibits Experienced Broadcasters And Publishers From Vigorously Competing In Local Markets	3
III.	Common Ownership Of A Newspaper And A Broadcast Station Will Not Result In Corporate Censorship Or Destroy Competition In Local Markets	6
	Conclusion	11

Summary

The record evidence in this proceeding overwhelmingly demonstrates that the newspaper/broadcast cross-ownership rule no longer serves its intended purpose, affirmatively hinders competition and diversity in a free market, and should be repealed. Accordingly, the Commission should issue a Notice of Proposed Rule Making recommending repeal of the rule.

The arguments advanced against repeal are unfounded and, as illustrated by the circumstances of other commenters, the rule affirmatively hinders the expression of diverse viewpoints, a result diametrically at odds with the public interest and with the concept of the free marketplace of ideas. For example, one grandfathered newspaper/broadcast combination's experience in utilizing synergies and developing a local cable news channel and a news and information website is precisely the result that will be replicated throughout the country should the newspaper/broadcast cross-ownership rule be eliminated. There is certainly no evidence that some corporate, monolithic viewpoint will suppress local viewpoint from afar. Moreover, the newspaper/broadcast cross-ownership rule prohibits those companies with the resources and incentives to develop new *local* informational outlets from doing so, a result that is fundamentally antithetical to competition in a free society and patently contrary to the public's best interest. The rule also prohibits those would-be owners with the most interest and experience, such as local newspaper publishers or broadcasters, from engaging in vigorous local competition in numerous urban/suburban cases.

The argument of opponents of repeal, that the rule must be retained to prevent a media oligopoly from delivering only corporate-approved pabulum to the American consuming public, denigrates the sophistication of both media owners and the American people. Furthermore, it is simply specious to argue that commonly-owned co-located media outlets will necessarily all speak in the same corporate monotone. The facts demonstrate, contrary to the arguments of some, that daily newspapers do not possess a monopoly in local print media and that, instead, competition in both the local print media and the local marketplace of ideas is robust. Finally, there can simply be no legal sanction for the Commission to retain the daily newspaper/broadcast cross-ownership solely on the basis of protecting weekly newspapers from competition in local print markets under any guise, even one seeking beneficently to enhance diversity.

Logic, sound public policy, and now the evidence presented in this proceeding require that the newspaper/broadcast cross-ownership rule be eliminated.

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
1998 Biennial Regulatory Review—)	MM Docket No. 98-35
Review of the Commission's Broadcast)	
Ownership Rules and Other Rules Adopted)	
Pursuant to Section 202 of the)	
Telecommunications Act of 1996)	

To: The Commission

REPLY COMMENTS OF HEARST-ARGYLE TELEVISION, INC.

Hearst-Argyle Television, Inc. ("Hearst-Argyle"), by its attorneys, hereby files the following Reply Comments in response to the *Notice of Inquiry* ("Notice"), FCC 98-37, released March 13, 1998, in the above-captioned proceeding. The *Notice* sought comment on the Commission's broadcast ownership rules, including the daily newspaper/broadcast cross-ownership rule, as part of the Commission's statutorily-mandated biennial review to determine whether its ownership rules continue to serve the public interest. A number of interested parties, including Hearst-Argyle, duly filed comments concerning the daily newspaper/broadcast cross-ownership rule. Hearst-Argyle submits that the evidence received by the Commission overwhelmingly demonstrates that the newspaper/broadcast cross-ownership rule no longer serves its intended purpose, affirmatively hinders competition and diversity in a free market, and should be repealed. Accordingly, the Commission should immediately issue a Notice of Proposed Rule Making recommending repeal of the rule.

I. Introduction

Of the various rules subject to Commission review in this proceeding, the newspaper/broadcast cross-ownership rule attracted the most intense scrutiny. This is hardly surprising, as the rule and its waiver policy have not been reviewed or altered in the 23 years since its adoption in 1975.¹ What is surprising is that 17 of the 20 parties² (85%) filing formal comments on this rule vigorously argued for its repeal³ whereas only 3 (15%) argued that the rule should be retained.⁴ Moreover, the supporters of repeal buttressed their arguments with supporting economic analyses that conclusively demonstrate that the newspaper/broadcast cross-ownership rule is an anachronism in a media market fundamentally altered by the information technology revolution and

¹ See Multiple Ownership of Standard, FM and Television Broadcast Stations, *Second Report and Order*, 50 FCC 2d 1046, 32 Rad. Reg. 2d (P & F) 954 (“*Second Report and Order*”), recon., 53 FCC 2d 589, 33 Rad. Reg. 2d (P & F) 1603 (1975), *aff’d sub nom. FCC v. National Citizens Committee for Broadcasting*, 436 U.S. 775 (1978) (“*NCCB*”).

² Jointly filed comments are considered to be filed by an aggregated party of one for the purposes of these figures.

³ In addition to Hearst-Argyle, the following parties support repeal: The Hearst Corporation; National Association of Broadcasters (“NAB”); Newspaper Association of America (“NAA”); Chronicle Publishing Co.; Gannett Co., Inc.; Tribune Company; Cox Broadcasting Inc. and Media General, Inc.; Association of Local Television Stations, Inc.; The Media Institute; ABC, Inc.; Lee Enterprises, Inc. (“Lee”); Freedom of Expression Foundation, Inc.; West Virginia Radio Corp.; Elyria-Lorain Broadcasting Co.; Greater Media, Inc. and Press Communications LLC; and J. Gregory Sidak.

⁴ Comments opposing repeal were filed only by Center for Media Education *et al.*; United Church of Christ, Office of Communication, Inc. and Black Citizens for a Fair Media (“UCC/BCFM”); and the Independent Free Papers of America (“Free Papers”). Significantly, only the comments filed by Free Papers address the newspaper/broadcast cross-ownership rule in detail; the other two joint comments deal with the rule much more cursorily. In addition to these formal comments, it appears that about seventeen individuals emailed the Commission expressing their view that the rule should be retained.

that it does not serve its intended purpose of promoting economic competition and viewpoint diversity.⁵

In these Reply Comments, Hearst-Argyle will not merely repeat its own arguments or those in the thousand-some pages establishing a clear record for repeal of the newspaper/broadcast cross-ownership rule. Instead, Hearst-Argyle will briefly show that the arguments advanced against repeal are unfounded and that, as illustrated by the circumstances of other commenters, the rule affirmatively hinders the expression of diverse viewpoints, a result diametrically at odds with the public interest and with the concept of the free marketplace of ideas.

II. The Newspaper/Broadcast Cross-Ownership Rule Now Operates To Stifle The Development Of “New Media” Voices And Perversely Prohibits Experienced Broadcasters And Publishers From Vigorously Competing In Local Markets

Hearst-Argyle believes the Commission can learn much from the situations of certain grandfathered newspaper/broadcast combinations. For example, the comments submitted in this proceeding by one such grandfathered combination provide an excellent, detailed case study of the public benefits that can flow from common ownership of a newspaper and television station in the same local market once the newspaper/broadcast cross-ownership rule is repealed. This story is particularly telling as so few grandfathered combinations remain and, Hearst-Argyle believes, most owners of grandfathered combinations are reluctant to make the necessary investments given the uncertainties inherent in a restricted regulatory climate.

⁵ Economic analyses were filed by NAB, NAA, Chronicle, Tribune, and Gannett. In addition, the comments of Sidak were in the nature of an economic affidavit.

By combining the resources of a newspaper and television station, while maintaining editorial independence, Chronicle Publishing Company has been able to create not one, but two new, diverse sources of news, information, and entertainment in San Francisco: SFGate, a comprehensive local news and information website <<http://www.sfgate.com>>, and BayTV, a 24-hour local news and information cable channel. Thus, instead of common ownership decreasing diversity, as the rule attempts to prophylactically prevent, it has affirmatively increased it. Although Hearst-Argyle's ultimate controlling shareholder, The Hearst Corporation ("Hearst"), has been involved in newspapers and broadcasting for decades, Hearst and Hearst-Argyle do not control a grandfathered newspaper/broadcast station combination. Nevertheless, Hearst-Argyle submits that this grandfathered combination's experience in utilizing synergies to grow new media is precisely the result that will be replicated throughout the country, albeit slowly at first, once the newspaper/broadcast cross-ownership rule is eliminated. Hearst-Argyle also notes that, in the light of free competition, it is *local* informational diversity that will blossom. There is no evidence, anecdotal or otherwise, that some corporate, monolithic viewpoint will crowd out or suppress local viewpoint from afar.

Perhaps most noteworthy about this grandfathered combination's case study is how capital intensive it has been to cultivate properly the development of new "new media" outlets. Both the website and the local cable news channel have been, and will remain for the foreseeable future, money-losing ventures, on the order of millions of dollars a year.⁶ It is only because their parent owners have the proverbial "deep pockets" that they can afford the patience necessary to permit their

⁶ See Chronicle's Comments at 16-17.

synergistic creations time to mature and bear fruit. But while these new media are currently unprofitable, millions of Americans in the San Francisco Bay Area reap daily the benefits of efforts sown because of common ownership.⁷ Hearst-Argyle submits that a rule, such as the newspaper/broadcast cross-ownership rule, that prohibits precisely those with the resources and incentives to develop new *local* informational outlets from doing so is, in today's world of convergent media, fundamentally antithetical to competition in a free society and patently contrary to the public's best interest.

Just as the newspaper/broadcast cross-ownership rule effectively and arbitrarily acts to stifle would-be common owners of local media from delivering new voices to local markets, so, too, does the rule restrict the pool of potential owners of local media by excluding precisely those with the experience and interest who can most provide vigorous competition in already existing local markets—viz. current owners of newspapers or broadcast stations. As Gannett points out in its comments, the rule will often prohibit an owner of a suburban newspaper from owning a broadcast station in its general metropolitan area solely because the signal contour of the station will encompass the community where the newspaper is published.⁸ This prohibition results—a consequence seemingly unintended when the rule was promulgated but one not apparently

⁷ Chronicle's own circumstances, as well as the economic analysis prepared by Stanley Besen and Daniel O'Brien, answer conclusively the Commission's query as to whether these synergies would not also exist for joint ventures with a clear "no." See Chronicle's Comments at 25-26 & 26 n.38; Stanley M. Besen and Daniel P. O'Brien, *An Economic Analysis of the Efficiency Benefits from Newspaper-Broadcast Station Cross-Ownership*, Chronicle's Comments at Exhibit B; Notice at ¶ 38.

⁸ See Gannett's Comments at 5-6. Tribune has raised the same issue with respect to its ownership of a Ft. Lauderdale newspaper barring it from owning a television station in Miami.

waivable—even when the circulation of the suburban newspaper is but a small fraction of the television households in the metropolitan market. Clearly, should common ownership be permitted, such situations would pose no threat to competition. Moreover, diversity in the local marketplace would likely be increased, as an experienced and financially-capable owner would be able to compete more vigorously against the already-established local media interests than can a weaker and less-experienced operator.⁹ In such urban/suburban cases, Hearst-Argyle submits, the newspaper/broadcast cross-ownership rule again stifles economic competition and viewpoint diversity—even if unintentionally—and, again, produces a result contrary to the public’s best interest in today’s highly competitive media marketplace.

III. Common Ownership Of A Newspaper And A Broadcast Station Will Not Result In Corporate Censorship Or Destroy Competition In Local Markets

Center for Media Education and UCC/BCFM, opponents of repeal, argue, in effect, that the rule must be retained to prevent a media oligopoly from spoon-feeding only corporate-approved pabulum to the American consuming public.¹⁰ This argument denigrates the sophistication of both media owners and the American people. Furthermore, it ignores the record evidence in this proceeding that media companies that own both newspapers and broadcast stations adhere to policies

⁹ Gannett illustrates these circumstances with its suburban papers in the Westchester County suburbs of New York City. Hearst-Argyle and Hearst are similarly barred from would-be common ownership in a number of markets.

¹⁰ See, e.g., Center for Media Education’s Comments at 2, 7, 27; UCC/BCFM’s Comments at 2, 7.

of strict editorial independence.¹¹ There is simply no evidence now, nor was there any when the newspaper/broadcast cross-ownership rule was promulgated in 1975, that common ownership of co-located media properties results in abuse of editorial or journalistic autonomy. Center for Media Education's and UCC/BCFM's arguments express an Orwellian worldview in which a corporate "Big Brother" censors and manipulates our informational diets. Fortunately, their vision is a chimera that vanishes when confronted by the reality of hard-bitten journalistic integrity, the vigor of competition (both economic and intellectual) in local markets, and the abundance of local media outlets.¹²

At base, Center for Media Education and UCC/BCFM appear to misunderstand the very nature of the modern media enterprise (and, as a result of misunderstanding it, mistakenly fear it). They see something ominous in the "[r]ecent revelations of fabricated news stories and controversies regarding the validity of news program,"¹³ imagining an "unspoken fear of upsetting the parent corporation . . . [that will] chill investigations[] and kill potential stories."¹⁴ But the recent episodes concerning CNN NewsStand's report on Operation Tailwind and the *Cincinnati Enquirer's* investigation of Chiquita's business practices prove just the opposite. In both cases, the stories were

¹¹ See, e.g., Hearst's Comments at 16; Chronicle's Comments at 19; Gannett's Comments at 2; Tribune's Comments at 38; Elyria-Lorain's Comments at 2; West Virginia Radio's Comments at 2; Lee's Comments at 3.

¹² In addition, such commentators have forgotten that the censor to fear in a democratic society is government, and here it is government that has privileged some voices over others for the past 23 years by expressly forbidding the invisible hand of the free marketplace to determine who will speak, and how, in local markets.

¹³ UCC/BCFM's Comments at 2.

¹⁴ Center for Media Education's Comments at 7.

aired or reported—they were **not** censored. Although media companies and the journalists who work for them are careful not to publish or broadcast defamatory material, they do not shy away from controversy. These episodes, and the debates they have spurred, demonstrate the vitality of the marketplace of ideas in today's competitive media market. It is simply specious to argue that a commonly-owned co-located newspaper, broadcast station, cable channel, and website will all speak in the same corporate monotone. Not only is that against the nature of journalists and contrary to the best interests of a media company striving to appeal to as broad and diverse an audience as possible, but our media-savvy culture will not stand for it and the fiercely competitive environment in which the media operate will not permit it.¹⁵

While the comments of Free Papers are more extensive, they are largely self-serving and speculative, filled with qualifiers such as “probably”¹⁶ and “[w]e do not have the data”¹⁷ and “[w]e do not have expert analysis.”¹⁸ The only argument warranting a response is Free Papers' claim that daily newspapers enjoy monopoly status in 99% of their markets, that independent free papers are the only viable print competition, and that the newspaper/broadcast cross-ownership rule is “the only

¹⁵ Hearst-Argyle also takes exception to UCC/BCFM's exaggerated statement that “[a] single news monopoly stretching across the entire country would surely benefit from immeasurable economies of scale, but it would not produce high-quality news for the communities it serves and would be completely inconsistent with the First Amendment.” UCC/BCFM's Comments at 7. This spurious argument is nothing but a straw man. Not only is there no evidence that a “news monopoly” would not produce high-quality local news, but the likelihood of such a “news monopoly” ever “stretching across the entire country” is nonexistent. More importantly, its hypothesized existence is totally irrelevant to the newspaper/broadcast cross-ownership rule which is concerned with common ownership in a local market and has nothing to do with national markets.

¹⁶ Free Papers' Comments at 3.

¹⁷ *Id.* at 5.

¹⁸ *Id.*

barrier standing in the way of even greater market power.”¹⁹ Hearst-Argyle submits that the facts and law do not bear out this dire conclusion.

Daily newspaper circulation reached its peak more than a decade ago, in 1987, when total daily circulation stood at nearly 63 million.²⁰ The most recent figures available show that by 1997, daily circulation had declined to 56.7 million,²¹ a loss of more than 6 million or nearly 10% over those 10 years.²² During those same 10 years, the total weekly circulation for paid- and free-circulation weeklies rose from 47.6 million²³ to, as Free Papers now claims, more than 85.1 million,²⁴ an increase of 79% in a decade. As Free Papers boasts, “the total weekly circulation of local free community papers exceeds by 50% the entire circulation of all daily newspapers in the U.S.”²⁵ Perhaps more significantly in the context of the life of the daily newspaper/broadcast cross-ownership ban, the number of daily newspapers has declined in each measured year since the promulgation of the rule in 1975 and their total circulation has decreased overall.²⁶ Since 1975, however, the number of paid- and free-weeklies has fluctuated around an average of about 7600,

¹⁹ *Id.* at 6.

²⁰ See Newspaper Association of America, *Facts about Newspapers* 12 (1998).

²¹ See *id.*

²² It is also worth noting that this decline of nearly 10% occurred while the population itself increased nearly 10%, making the relative decline in “penetration” even greater.

²³ See *Facts about Newspapers* at 27.

²⁴ See Free Papers’ Comments at i.

²⁵ *Id.*

²⁶ See *Facts about Newspapers* at 11-12.

while their total circulation has increased from 35.9 million to 85.1 million, an increase of 137%.²⁷ Hearst-Argyle submits that these facts conclusively demonstrate that daily newspapers do not, in fact, possess anything like a monopoly in local print media and that, instead, competition in both the local print media and the local marketplace of ideas is evidently robust, at least from the perspective of weeklies and newspaper readers. Indeed, the diverse viewpoints voiced in the more than 9000 daily and weekly newspapers combined are reaching more Americans than ever.

What is most disturbing about Free Papers' argument, however, is its fallacious notion that the daily newspaper/broadcast cross-ownership rule should be retained to protect the weeklies' market share in the local print media, despite Free Papers' own acknowledgment that "newspapers cannot be regulated by license."²⁸ This frightening argument is patently antithetical to the First Amendment. Hearst-Argyle submits that the newspaper/broadcast cross-ownership rule was not, and could not have been, promulgated with this purpose in mind. The Commission's mandate is to regulate the airwaves in the public interest; it has no warrant to interfere, for good or ill, in local print markets. There is simply no legal sanction for the Commission to retain the newspaper/broadcast cross-ownership rule on the basis of protecting weeklies from competition in local print markets under any guise, even one seeking beneficently to enhance diversity.²⁹

²⁷ *See id.* at 27.

²⁸ Free Papers' Comments at 6.

²⁹ Moreover, the very notion of government advantaging some speakers at the expense of others is completely contrary to the First Amendment itself. *See, e.g., Buckley v. Valeo*, 424 U.S. 1, 48-49 (1976) (stating that the "concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the First Amendment," for the "First Amendment's protection against governmental abridgment of free
(continued...)

Conclusion

The overwhelming record evidence in this proceeding conclusively demonstrates that the newspaper/broadcast cross-ownership rule is no longer “necessary in the public interest as the result of competition.”³⁰ Because the underlying rationale of spectrum scarcity can no longer justify the rule in today’s altered, competitive environment; because the rule can no longer withstand constitutional scrutiny; because the burden of proof that the Commission must adduce to retain the rule cannot be satisfied; because the rule is antithetical to competition in a free market and stifles innovation in a world of media convergence; because the rule actually interferes in the marketplace of ideas by privileging some voices over others and affirmatively hinders the expression of diverse viewpoints; and because Congress’ plain belief, by mandating biennial review, is that competition—sooner, rather than later—will have obviated the rule, the rule must be repealed.

For these and all the reasons advanced in this proceeding, Hearst-Argyle respectfully requests that the Commission issue forthwith a Notice of Proposed Rule Making recommending elimination of the newspaper/broadcast cross-ownership rule.

²⁹(...continued)

expression cannot properly be made to depend on a person’s financial ability to engage in public discussion” (citations omitted)).

³⁰ Telecommunications Act of 1996, Pub. L. No. 104-104, § 202(h) (1996).

Respectfully submitted,

HEARST-ARGYLE TELEVISION, INC.

By


Wade H. Hargrove

By


Mark L. Prak

By


David Kushner

Its Attorneys

BROOKS, PIERCE, McLENDON,
HUMPHREY & LEONARD, L.L.P.
First Union Capitol Center
Suite 1600 (27601)
Post Office Box 1800
Raleigh, North Carolina 27602
Telephone: (919) 839-0300
Facsimile: (919) 839-0304

August 21, 1998